

Rev. Rul. 72-102, 1972-1 C.B. 149, modified Rev. Rul. 74-99

A nonprofit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for use of the residents is exempt under section 501(c)(4); however, contributions to the organization are not deductible under section 170 of the Code; Revenue Ruling 69-280 distinguished.

Advice has been requested whether the nonprofit organization described below qualifies for exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code of 1954.

The organization is a membership organization that was formed by a developer and is operated to administer and enforce covenants for preserving the architecture and appearance of a housing development, and to own and maintain common green areas, streets, and sidewalks for the use of all development residents.

Prospective home buyers are advised that membership in the organization is required of all owners of real property within the housing development. The organization is supported by annual assessments and member contributions. Its activities are for the common benefit of the whole development rather than for individual residents or the developer.

Section 501(c)(4) of the Code provides for exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

For the purposes of section 501(c)(4) of the Code, a neighborhood, precinct, subdivision, or housing development may constitute a community. For example, exempt civic leagues in urban areas have traditionally represented neighborhoods or other subparts of much larger political units. By administering and enforcing covenants, and owning and maintaining certain non-residential, non-commercial properties of the type normally owned and maintained by municipal governments, this organization is serving the common good and the general welfare of the people of the entire development. Even though the organization was established by the developer and its existence may have aided him in selling housing units, any benefits to the developer are merely incidental. Also, even though the activities of the organization serve to preserve and protect property values in the community, these benefits that accrue to the property owner-members are likewise incidental to the goal to which the

organization's activities are directed, the common good of the community. Therefore, it is held that the organization is exempt from Federal income tax under section 501(c)(4) of the Code. Contributions to it are not deductible by donors under the provisions of section 170(c)(2) of the Code.

Revenue Ruling 69-280, C.B. 1969-1, 152, which holds that a nonprofit organization formed to provide maintenance of exterior walls and roofs of members' homes in a development is not exempt under section 501(c)(4) of the Code, is distinguished because that organization was operated primarily and directly for the benefit of individual members rather than for the community as a whole.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1024, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(4) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.